

Appln. No. 09/744,605
Amd. dated March 3, 2006
Reply to Office Action of December 6, 2005

REMARKS

The Office Action and the cited and applied references have been carefully reviewed. No claim is allowed. Claims 17, 19, 29, 30, and 34-38 presently appear in this application and define patentable subject matter warranting their allowance. Reconsideration and allowance are hereby respectfully solicited.

Claim 18 has been rejected under 35 U.S.C. §112, second paragraph, as being indefinite. This rejection is obviated by the cancellation of claim 18 without prejudice.

Claims 12, 15, 18, 21, 25-28, 31 and 32 have been rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. This rejection is obviated by the amendment to the claims.

Claims 24, 25 and 33 have been rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the enablement requirement. This rejection is made moot by the cancellation without prejudice of rejected claims 24, 25 and 33.

Claims 12, 15-19, 21 and 24-33 have been rejected under 35 U.S.C. §112, first paragraph, because the examiner states that the specification, while being enabling for methods of inducing the death of undesirable leukemia cells comprising administering interferons which induce overexpression of PML in combination with arsenic trioxide, zVAD or DEVD, does not reasonably provide

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enablement for methods of inducing the death of non-leukemic undesirable cells, or methods requiring the administration of the PML protein rather than an interferon, or methods requiring the administration of an "agent" which is not interferon. This rejection is also obviated by the amendment to the claims.

Claims 12, 16-19, 21 and 26-27 have been rejected under 35 U.S.C. §102(a) as being unpatentable over He et al.

(*Anticancer Research* 1997, Vol. 17, No. 5C, page 3927, abstract #6) in view of Muller et al. (*EMBO* 1998, Vol. 17, pp. 61-70) and Chelbi-Alix et al. (*NATO ASI Series H: Cell Biology* 1996, Vol. 99, pp. 17-27). This rejection is respectfully traversed.

Claims 19 is amended to positively recite that a) arsenic trioxide or zVAD or DEVD and b) an interferon synergistically induces the death of leukemia or lymphoma cells, an unexpectedly superior result as argued previously on page 8 of the amendment filed September 8, 2005, which could not have been predicted and therefore made obvious by the combination of the He, Muller and Chelbi-Alix references.

Reconsideration and withdrawal of the rejection are therefore respectfully requested.

New claims 34-38, directed to a method for treating or inhibiting leukemia, are added. Dependent claim 35 directed to acute promyelocytic leukemia (APL) as the specific indication is

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supported in the specification on page 1, lines 13-23. No new matter is being introduced into the application.

The claims cancelled by this amendment are cancelled without prejudice to the refiling in a continuation application.

In view of the above, the claims comply with 35 U.S.C. §112 and define patentable subject matter warranting their allowance. Favorable consideration and early allowance are earnestly urged.

Respectfully submitted,

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